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Governor

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*Director
Business and Industry*

STATE OF NEVADA



ANDREW J. MACKAY
Chairman

MICHAEL J. KLOBERDANZ
Commissioner

MONICA B. METZ
Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY
NEVADA TRANSPORTATION AUTHORITY

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A duly authorized meeting of the Nevada Transportation Authority was held on **Thursday, December 9, 2010 at 10:00am** at the Authority's offices located at 2290 South Jones Blvd., Suite #110, Las Vegas, Nevada and 1755 East Plumb Ln., Suite #216, Reno, Nevada.

MINUTES OF THE MEETING

1. Call to Order:

Chairman Andrew J. MacKay called the meeting to order.

2. Roll Call:

Present in Las Vegas: Commissioner Michael J. Kloberdanz, Commissioner Monica B. Metz, Administrative Attorney James Allen Day, Applications Manager Liz Babcock, Financial Analyst Yvonne Shelton, Financial Analyst Lidia Aronova, Chief Inspector Michael Bradford, Senior Deputy Attorney General David Newton. Not present: Deputy Commissioner Marilyn Skibinski due to obligations with respect to budget reports.

3. Pledge of Allegiance

4. **Approval of Agenda:

Administrative Attorney Day requested that item 11(c)(1) be considered individually and that items 11(c)(6), 11(c)(8), and 11(c)(13) be pulled from the Agenda. Commissioner Metz and Chairman MacKay asked that Item 11(c)(22) be considered pulled for discussion. Approved 3-0 as amended.

5. **Approval of the Minutes of the November 4, 2010 Agenda Meeting:

Approved 3-0.

6. Briefings from the Commissioners:

Commissioner Metz noted that the Authority's rulemaking package will be considered by the Legislative Commission on December 16, 2010. Chairman MacKay expressed his gratitude to Commissioner Metz for her extraordinary efforts with respect to the rulemaking package. Chairman MacKay also thanked Deputy Commissioner Skibinski and NTA Staff for their work.

7. Briefing from the Deputy Commissioner:

Deputy Commissioner Skibinski was not present due to obligations with respect to budget reports.

8. Report of Legal Counsel:

Senior Deputy Attorney General Newton reported that his Motion to Dismiss the Petition for Judicial Review in the Handicab matter is scheduled to be heard on January 4, 2011 and that the Nevada Supreme Court had rejected Mr. Belssner's third request for rehearing.

9. **Applications for Fully Regulated Carriers

a) Docket No. 08-06011 The Application of Fox Limousine, Inc. for a certificate of public convenience and necessity (hereinafter "CPCN") to operate as a common carrier of passengers to provide charter limousine service in the State of Nevada. (MBM)

Commissioner Metz summarized the procedural history and the hearing on this matter. Commissioner Metz detailed shortcomings in the Application with respect to operational fitness and the character of the proposed market. Attorney James S. Kent argued that the Applicant meets all the requirements of NRS 706.391, that NTA Staff believed the Applicant to be operationally fit, and asked that the Application be granted for 11 additional vehicles. Attorney Kimberly Maxson-Rushton, on behalf of Intervener Limousine Operators Association of Las Vegas, argued that the Applicant failed to meet its burden under NRS 706.391, and that granting the Application would be in contravention of the principles set forth in NRS 706.151(c) and (e). Commissioner Klobardanz and Chairman MacKay reported that they had listened to the hearing as it occurred and had reviewed relevant portions of the documentary record. Chairman MacKay expressed his agreement with the concerns voiced by Commissioner Metz and Ms. Maxson-Rushton. Application denied 3-0.

b) Docket No. 09-07010 The Application of GMT CARE, Inc. for a CPCN to provide non-emergency medical transportation within the State of Nevada. (MJK)

Commissioner Klobardanz summarized the procedural history and the hearing on this matter and recommended approval of the Application. Attorney Michael Hottman thanked NTA Staff for their assistance in the Application process. In response to a question from Commissioner Metz, Mr. Hottman reported that the Applicant would hire a full time office clerk and that driver files would be maintained at Mr. Hottman's office, with all files to be available for inspection during business hours. Chairman MacKay expressed his support for the Application. Application granted 3-0.

- c) **Docket No. 10-07038 The Joint Application of the Sampoul Family Trust to transfer and of Colonial Van & Storage, Inc. to acquire 50% of the corporate stock of Colonial Van & Storage, Inc., authorized to provide transportation of household goods under CPCN 3151, Sub1. Staff investigation concluded.**

Attorney Patrick Fagan summarized the matter, noting potential Staff concerns about whether two transfers required separate applications and whether the applications must be filed jointly by the transferors and transferees. Discussion regarding these issues ensued between and among the Commissioners, Mr. Fagan, SDAG Newton and Administrative Attorney Day. Chairman MacKay assigned himself Presiding Officer in the matter and set a deadline of February 18, 2011 for the filing of an Applicant Brief regarding these issues, with no brief required if Staff and the Applicant reach a consensus on the procedural issues. Application referred back to Staff for further review 3-0.

- d) **Docket No. 10-08018 The Petition of Las Vegas Firearms, Inc. to change their name to Desert Sky Transportation, Inc. for services conducted under contract carrier Permit MV 6138. Staff investigation concluded.**

Applications Manager Liz Babcock expressed Staff's support for the Application. Attorney Brian Boggess, on behalf of the Applicant, thanked the Staff for their assistance. Application granted 3-0.

- e) **Docket No. 10-11025 The temporary discontinuance from November 19, 2010 through May 19, 2011 of services provided by Phyllis J. Clemmer d/b/a Fernley Taxi Service under CPCN 1030, Sub 1. Staff investigation concluded.**

Commissioner Metz requested that an operational inspection be conducted prior to allowing the Applicant to return to service upon the expiration of the temporary discontinuance and that such inspections be adopted as a standard practice at the conclusion of all temporary discontinuances by fully regulated carriers. Application granted 3-0 with the condition suggested by Commissioner Metz.

10. **Financial Rates and Tariffs

- a) **Docket No. 10-11004 The Application of Seiji, LLC d/b/a Seiji Limousine for approval of a tariff rate modification for charter limousine services conducted under CPCN 1111, Sub 1. Staff investigation concluded.**

Financial Analyst Yvonne Shelton summarized the Application. SDAG Newton requested clarification of the hourly tiers and rates for the 1928 Cadillac vehicle. Kellie McKinley on behalf of the Applicant agreed to work with Staff to clarify this item. Application granted 3-0 with the condition to clarify the hourly tiers and rates for the 1928 Cadillac vehicle.

- b) **Docket No. 10-11018 The Application of On Demand Sedan, Inc. for approval of a tariff rate modification for charter limousine services conducted under CPCN 1040, Sub 3. Staff investigation concluded.**

Financial Analyst Yvonne Shelton summarized the Application. Application granted 3-0.

11. **Consent Items

a) Application for Certificate of Public Convenience and Necessity to Provide Charter Bus Service

Docket No. 10-08003 The Application of Optimum Equipment Group, LLC d/b/a BERUS Armored Transport for a Certificate of Public Convenience and Necessity to provide charter bus service within the State of Nevada. Staff investigation concluded.

Attorney Trevor Hayes was present on behalf of the Applicant. Applications Manager Liz Babcock summarized the Application and noted that the vehicles are in the style of armored cars but are not actually armored. Application granted 3-0.

b) Applications for Certificates of Public Convenience and Necessity to Provide Tow Car Service

1) Docket No. 10-09006 The Joint Application of Edward Kakoisan for authority to sell and transfer and of Michael Armstrong and James Blomgren to purchase and acquire Rush In Towing, LLC, authorized to provide tow car service by tow car vehicle within the State of Nevada under CPCN 7221. Staff investigation concluded.

Applications Manager Liz Babcock summarized the Application. Michael Armstrong and James Blomgren were present on behalf of the purchasing Applicants. Application granted 3-0.

2) Docket No. 10-10002 The Joint Application of Michael and John Etchemendy for authority to sell and transfer and of Christopher Holland to purchase and acquire 100 % of the corporate stock of Carson City Towing, Inc., authorized to provide tow car service by tow car vehicle within the State of Nevada under CPCN 7036. Staff investigation concluded.

Applications Manager Liz Babcock summarized the Application. Purchasing Applicant Christopher Holland was present. Application granted 3-0.

c) Administrative Citations and Impoundments

Items 11(c)(2-5), (7), (9-12), (14-21) and (23-37) were collectively approved 3-0.

1) Citation 14463 issued to Alan Colbeth for a violation of NAC 706 as amended by LCB File No. R127-07(1). (AJM)

Commissioner Metz stated that she respectfully disagrees with the interpretation of the term “dispatch” to include a vehicle not sent by the carrier to a location. Chairman MacKay clarified that the proposed Order is fact specific based upon the credibility of the Respondent in the instant matter, that this Order should not be considered as precedent in other cases, and that he intends to strictly scrutinize future similar claims. Order approved 2-1 with

Commissioner Metz dissenting, with the addition of language that the Order shall not have precedential value in future cases.

- 2) **Impound 1773 and Citation 14984. The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 14984 issued to Mark Lester Walker for a violation of NRS 706.386. (AJM)**
- 3) **Citation 15277 issued to The Tow Truck Co. for a violation of NAC 706.432. (MJK)**
- 4) **Citation 15238 issued to Richard William Nitti for violations of NAC 706 as amended by LCB File No. R127-07(1), NAC 706.228(3) as amended by LCB File No. R127-07, NAC 706.228(4) as amended by LCB File No. R127-07, and NAC 706.228(5) as amended by LCB File No. R127-07. (MJK)**
- 5) **Citation 15240 issued to George Sarmiento for violations of NAC 706.329 and NAC 706.354. (MJK)**
- ~~6) Citations 15241 and 15242 issued to Kenneth Coley for violations of NRS 706.758, NAC 706.329 and NAC 706.247/49 CFR 391.41. (MJK)~~
- 7) **Citation 15271 issued to Best's Towing for violations of NAC 706.311 and NAC 706.420. (MJK)**
- ~~8) Citations 15327 and 15328 issued to Joseph Conley for violations of NAC 706.247/49 CFR 391.41, NAC 706.329, NAC 706.354, and NAC 706 as amended by LCB File No. R127-07(1). (MJK)~~
- 9) **Citation 15330 issued to James Webb for a violation of NAC 706 as amended by LCB File No R127-07(1). (MJK)**
- 10) **Citation 15331 issued to Joshua M. Hardee dba Buddy's Moving for violations of NRS 706.386 and NRS 706.758. (MJK)**
- 11) **Impound 1787 and Citation 15282 The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15282 issued to Harold Jenkins for violations of NRS 706.386 and NRS 706.758. (MJK)**
- 12) **Impound 1799 and Citation 15356 The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15356 issued to Jorge Diaz-Martinez for violations of NRS 706.386 and NRS 706.758. (MJK)**
- ~~13) Citation 15260 issued to Experience Moving, LLC for violations of NRS 706.386 and NRS 706.758. (MBM)~~
- 14) **Citation 15337 issued to Luis Horna dba Denali Moving for violations of NRS 706.386 and NRS 706.758. (MBM)**

- 15) Impound 1648 and Citation 15249 The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15249 issued to Platinum Style Limousine for violations of NRS 706.386 and NRS 706.758. (MBM)**
- 16) Impound 1792 and Citation 15341 The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15341 issued to Robert James Horn for violations of NRS 706.386 and NRS 706.758. (MBM)**
- 17) Impound 1795 and Citation 15284 The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15284 issued to John Dufton for violations of NRS 706.386 and NRS 706.758. (MBM)**
- 18) Impound 1796 and Citation 15352 The impoundment pursuant to NRS 706.476 of a vehicle registered to and Citation 15352 issued to Marlon Valenzuela for violations of NRS 706.386 and NRS 706.758. (MBM)**
- 19) Citation 14985 issued to Peter Spotti for a violation of NAC 706.228 as amended by LCB File No. R127-07(1).**
- 20) Citation 14986 issued to Quick Tow Inc. dba Quick Response for violations of NRS 706.4477 as amended by LCB File No. R075-08 and NRS 706.420.**
- 21) Citation 14989 issued to Mehari T. Michael for a violation of NAC 706.354.**
- 22) Citation 15120 issued to AA Action Towing, Inc. for two violations of NRS 706.4477.**

Chairman MacKay and Commissioner Metz requested Staff input as to whether the Respondent had provided refunds to the registered owners of the two towed vehicles. SDAG Newton reported that, at the direction of Authority Staff, the Respondent had refunded all tow charges prior to the entry of the settlement agreement. Approved 3-0.
- 23) Citation 15125 issued to Kenneth Amtman for a violation of NAC 706.329.**
- 24) Citation 15301 issued to Rodney Ford for a violation of NAC 706.329.**
- 25) Citation 15205 issued to A Limousine Co., LLC for violations of NRS 706.167 and NRS 706.398.**
- 26) Citation 15206 issued to Diamond Transportation for a violation of NAC 706.206.**
- 27) Citation 15247 issued to Michael McCoy for a violation of NAC 706 as amended by LCB File No. R127-07(1).**
- 28) Citation 15268 issued to Chris Neeley dba C & R Movers for violations of NRS 706.386 and NRS 706.758.**
- 29) Citation 15287 issued to Andrey Motsny for a violation of NAC 706.329.**

- 30) Citation 15335 issued to Vegas Valley Towing for a violation of NAC 706.420.**
- 31) Citation 15336 issued to Albert Kingsbury for violations of NRS 706.386 and NRS 706.758.**
- 32) Citation 15339 issued to The Tow Truck Company for a violation of NRS 706.4477.**
- 33) Citation 15343 and 15348 issued to Francisco Figueroa for violations of NAC 706.228 and NAC 706.247/49 CFR 391.41.**
- 34) Citation 15345 issued to Earth Limousines for a violation of NAC 706.247/49 CFR 391.41.**
- 35) Citation 15346 issued to Earl Cook for a violation of NAC 706.228.**
- 36) Citation 15347 issued to William Buzzi for a violation of NAC 706.228.**
- 37) Citation 15349 issued to Juan Polanco for a violation of NAC 706.228.**

12. Public Comment: None.

13. Adjournment: Adjourned at 12:40pm.